City of Lafayette

DRAFT City Council Minutes

Lafayette Library and Learning Center – Don Tatzin Community Hall
3491 Mount Diablo Boulevard, Lafayette, California

April 14, 2025
6:30 p.m.

As a courtesy, and technology permitting, members of the public may participate virtually. However, the City cannot guarantee that the public's access to teleconferencing technology will be uninterrupted, and technical difficulties may occur from time to time. Unless required by the Brown Act, City Council/Board meetings will continue despite technical difficulties for participants using the teleconferencing (Zoom) option. To participate virtually in the City of Lafayette's public meetings and provide public comment, please follow these steps:

1. **Watch or Listen:** Meetings are broadcast on the City of Lafayette's YouTube Channel: http://bit.ly/LoveLafayetteYouTube.

2. **Submit Comments Before the Meeting**: Members of the public can provide public comment by sending an e-mail to cityhall@lovelafayette.org for City Council meetings no later than noon the day of the meeting. Those e-mails will be distributed to City Council, the City Manager, and the City Attorney, and will be posted as part of the public record.

3. **Live Remote Public Comments:** Technology permitting, members of the public may submit live public comment via Zoom conferencing by using the link below. You must download the Zoom app or software. Zoom meetings can be accessed by telephone, computer, or smart device. When the Mayor invites public comment for the item on which you would like to comment, please use the "raise hand" feature (or press *9 if connecting via telephone only) to alert staff you have a public comment to provide. Each speaker is allowed three (3) minutes to speak.

4. At the time and date of the meeting, please click this URL to join the webinar:
https://us02web.zoom.us/j/89008805648?pwd=ODQxRGxzaGNHSWVITUVFalFuUHBIZz09
Passcode: **426199** Or join by phone: Dial **1 669 900 9128**
Webinar ID: **890 0880 5648** Passcode: **426199**

1. CALL TO ORDER – 6:30 P.M.

Mayor Candell called the Regular City Council meeting to order at 6:30 p.m.

2. ROLL CALL

Present: Mayor Candell, Vice Mayor Anduri; Councilmembers Cervantes, Dawson, and McCormick

Absent: None

Staff Present: Niroop Srivatsa, City Manager; Tracy Robinson, Administrative Services Director; Greg Wolff, Planning and Building Director; Jonathan Katayanagi. Parks and Recreation Director; Mala Subramanian, City Attorney; Joanne Robbins, City Clerk

3. Disclosure and/or Take Action on Remote Participation due to Just Cause or Emergency Circumstances Pursuant to AB 2449 (Gov. Code section 54953(f).)

4. ADOPTION OF AGENDA

ACTION: It was M/S/C (Anduri/Dawson) to adopt the agenda. Roll Call Vote: 5-0 (Ayes: Anduri, Cervantes, Dawson, McCormick, and Candell; Noes: None).

5. PUBLIC COMMENTS (For Closed Session Items) – None.

6. CLOSED SESSION
Conference with Legal Counsel – Existing Litigation (Gov. Code section 54956.9(d)(1).)
Robert McClain v. City of Lafayette, et al.
Contra Costa County Superior Court, Case No. N23-1644

RECONVENE/REPORT OUT OF CLOSED SESSION

Mayor Candell announced there was no reportable action in Closed Session.

7. PLEDGE OF ALLEGIANCE – 7:00 p.m. – A boy Scout troop led in the Pledge of Allegiance

8. Mayor Candell – Land Acknowledgement Statement

We acknowledge that Lafayette is part of the unceded, ancestral homeland of the Bay Miwok people. The Bay Miwok and neighboring Ohlone people have lived in and moved through this place for thousands of years. They stewarded and shaped this land for hundreds of generations. We express our appreciation and gratitude for this profound legacy, which enhances and contributes to our lives to this day. We will strive to honor this land and strengthen our ties with the Indigenous communities that continue to live and work in our East Bay region as our neighbors and community members. We acknowledge and honor them and their ancestors, elders, and next seven generations.

9. PUBLIC COMMENTS (For Items not on the agenda)

KATIE FOREMAN ceded her three minutes to Rob Sturm.

ROB STURM said he is speaking as an individual and is a member of the Lafayette School District Governing Board. He spoke to the Council one month ago regarding City funding for the crossing guard program hoping the City would initiate an action-oriented discussion about the topic. He urged the Council to take seriously the City's responsibility for off-site traffic safety and provide dedicated funding for the crossing guard program. School Districts have no legal responsibility for off-site traffic safety and this obligation rests squarely with the City. Not taking action is fundamentally unfair, particularly given the District's severe financial shortfalls and on-going multi-billion structural deficits. Since his earlier comments, he has confirmed his expressed understanding that the City previously had full responsibility for crossing guards. Prior to the 2002/03 fiscal year, the City bore all costs under the Police Services budget Account 11-210 as noted on page 79 of the City's 2021/22 proposed budget.

Furthermore, in a staff memo dated January 14, 2019, it was acknowledged that the City retained full accountability for the crossing guard contract through the 2014/15 budget year. Ironically, that same memo recommended the City should not commit to funding even 50% of the program going forward because it "had no control over the contract and therefore, no control over the on-going costs." This concern of over-control is both understandable and easily resolved. The City can and should resume responsibility for the crossing guard contract and enter into an agreement, whether informal or through an MOU wherein the school district would perform operational aspects as it has for many years. The District's Budget Advisory Committee recommended this outcome in its recent 2025 budget reduction advisory report to the School Board as a key means to help remedy the District's significant on-going structural deficits. The crossing guard program and the City's funding for it are not new programs. It is a long-standing public safety service that allows the community's children get to and from school safely. The City funded it in the past and the City has the legal and moral responsibility to fund it now. Crossing guards are one of many tools in the City's arsenal for managing its circulation and safety duties on the City's roads.

Lastly, the City is best suited to assess whether the current program is right-sized or could perhaps be modified as the program had admittedly expanded since the City had control. He urged the Council to make this a priority and take the necessary steps to fund the crossing guards, even if simply as an interim transition while the school district faces severe financial distress.

10. CITY MANAGER'S UPDATE

City Manager Niroop Srivatsa gave the following update:

- From Engineering and Public Works:
  - Staff has begun work on the 2026 CIP along with an updated 5-year paving program. The updated 5-year paving program is more robust, and this will be brought to the Council on May 12th. With use of Measure H funds, the City will be able to keep its roads in very good condition with a PCI of 75 or higher.
  - For over 30 years, the City has had a contractor, Pacific General Engineering, who has functioned as the City's supplement to Public Works. They have done everything in Lafayette from patch-paving, repairing storm drains, speed humps, guardrails, etc. They are closing shop, and she gave Jeff and Jim a shout out for serving the Lafayette community well.

- From Parks, Trails, and Recreation:
  - The Day of the Bunny fun event this weekend is sold out. Families are encouraged to sign up early for the family dance on May 2nd because this will likely sell out, as well.

- Work is beginning on planning for the Hamlin Park, and residents are encouraged to follow the PTR Commission e-notifications, as the City will be soliciting public input to design Hamlin Park.

- From the Public Art Committee:
  - The Committee is kicking off the installation of its first public mural project. Everyone is invited to the workshop this Wednesday, April 16th from 4:00 to 6:00 p.m. at the City offices to share input on the work of the three muralists being considered.

Lastly, if anyone is wondering why the dining areas in the on-street parking spaces in front of Batch and Brine and Pizza Antica are gone, the property owner informed the City that they were no longer interested in the additional dining spaces and, as a result, they removed dining chairs and tables, and the City removed its decorative barriers. The City's outdoor dining program using on-street parking is still in place until January 26th. Should other restaurants be interested, she asked them to contact City offices.

Mayor Candell opened the public comment period, and there were no speakers.

11. PRESENTATIONS

A. Tracey Farrell and Adam Winig
Update - The Park Theater Trust
Recommendation: Receive and file.

Tracey Farrell, CFO of the Park Theater Trust, introduced Peter Berkowitz, Boardmember, and Adam Winig of Arcsine Architecture, along with other Trust members watching the meeting. She provided an overview of the significant progress made in their efforts to reopen the Park Theater, as follow:

- $2,299,575 raised in 2024, including $1,803,200 in donations and $496,375 in pledges.
- They finished the year with 532 donations, 25% of which came from outside the 94549-zip code, showing broad regional support.
- Funding has come from individuals, businesses, corporations, the Community Foundation of Lafayette, the Lafayette Chamber of Commerce, and civic support.
- Over 1,000 people have donated, and pro bono and in-kind support has been crucial in their budgeting efforts.
- Key supporters: Sunrise Rotary Club, Lafayette Rotary Clubs, Eagle Scout Clark Laske, the Deutscher family, Dougla Designs, the law offices of Boles and Verna, Rev Bistro, Hide-Out Kitchen, and Steven Palls of Minute-Man Press.
- Over $10.5 million has been raised, but approximately $2 million remains to be raised.
- The Trust has no investors and hopes to fund the project entirely through community donations, though they may seek financing if needed to stay on track for the late 2026 reopening (coinciding with the Park Theater's 85th birthday).
- Construction fencing is up, marking a significant milestone.
- Over 200 theater seats were dismantled and redistributed:
  - 100 seats went to the Majestic Theater in Benicia.
  - The remaining seats went to community members, including for use in photography studios, home theaters, and even a future wine camp at Burning Man.
- Many vintage artifacts have been removed for reuse, including art-deco sconces, teardrop lobby lights, and metal cabinets.
- Hazardous materials abatement has begun, with interior demolition to follow.

- Construction drawings are being finalized, with preliminary sets sent to the Fire Department, Central Sanitary District, and Public Health Department for review.
- Final plans are expected to be submitted to County Offices by May 1st.
- Renovation work is expected to begin in September 2024.

Ms. Farrell expressed heartfelt thanks to the City Council and staff for their guidance and support over the past 6 ½ years and said the Park Theater Trust is deeply grateful for the ongoing partnership and help in achieving this vision.

Adam Winig, Architect, Arcsine Architecture, then provided a PowerPoint presentation of the project, as follows:

Site Plan and Expansion:

- The renovation will extend the back of the building by about 22 feet to accommodate new spaces.
- The original Park Theater was a single-screen movie house. The new design includes:
    - Two theaters (one large, one smaller),
    - A community room, and
    - A rooftop bar.

Building Layout:

- The large theater will remain oriented similarly to the original layout.
- The smaller theater will be rotated 90 degrees, occupying the shorter width of the building.

Ground Floor Plan:

- Restoration of Original Features: The original ticket booth will be restored, and the old doors to the theater will be repositioned to line up with the ticket booth, creating more space in the lobby.
- The concession area and bathrooms will be revamped, with a small kitchen and an elevator providing access to the roof deck.
- A grand stairway under a skylight will lead to the theaters.
- The large theater will feature removable chairs for flexible programming, while the small theater will also have one row of removable chairs.
- The community room will be located at the front of the building.

Additional Features:

- New windows will overlook the existing roofs, which will feature plantings.
- An additional set of restrooms will serve the community room and other spaces.
- The space between the two theaters will house the projection rooms.

Rooftop Terrace:

- The rooftop terrace can hold up to 49 people and features a small bar, freestanding patio furniture, and a lounge area.
- The terrace will include a partial-height wall with planters, providing visual and mechanical protection.
- A large array of solar panels will be installed on the roof to maintain sustainability for the building.

Restoration of Façade and Exterior:

- The front façade will be restored to its original Art Deco style, including:
    - New Art Deco tiles to match the original design,
    - Restoration of the original ticket booth,
    - New bronze entry doors with glass,
    - New lighting under the marquee, and

    - Complete re-stuccoing of the entire building.
- The marquee will be fully revitalized with new neon lighting.

Interior Design:

- The concession stand will have a small pickup area for condiments, as well as space for movie posters and a custom mural.
- Similar carpeting will be used throughout, keeping with the original style of the theater.

Renderings and Visuals:

- Mr. Winig lastly displayed renderings of the large and small theaters as well as the rooftop deck, showcasing the modernized look while retaining historical elements.

Mayor Candell and Councilmembers thanked representatives of the Park Theater Trust for their presentation and update.

Mayor Candell opened the public comment period.

MAY IVANETICH said she is a long-term attendee of the Park Theater when the admission fee was 25 cents and asked what admission would be once opened.

Ms. Farrell responded, stating the survey work that went into the model was mindful of ticket prices. After deliberation and input, they selected Cinema SF who does dollar nights, free nights, pay as you can, and tremendous fundraising events. One of the reasons for the commercial kitchen model is that concessions bring in 60% of revenue to a theater on any given day, which allows an operator to have much more latitude on ticket prices. The theater will open at 3PM for students to be able to attend, and she believes residents will find the theater welcoming and affordable.

Councilmembers cited the generosity of the Park Theater Trust, said they look forward to the Park Theater's opening, and cited the amount of energy, dedication of time, selflessness of the Board, and believes the entire plaza area and community will benefit from its opening.

KAYLA GOMEZ, Field Representative, Nor Cal Carpenter's Union 152, asked if this project will have any type of labor standards and, if so, she asked what the process is for tracking them.

Mr. Berkowitz replied that they are currently in the process of choosing the general contractor and, through that process, will have more clarity to answer that question.

B. Suzy Pak, Community Outreach Coordinator for the Lamorinda Village
Update on the Lamorinda Village Supported Memberships
Recommendation: Receive and file.

Suzi Pak, Community Outreach Coordinator, Lamorinda Village, said the agreement with the City was approved two years ago, and said this month marks the 10-year anniversary of Lamorinda Village. There is no way they would be as successful as they have been without the support of the City and they are grateful for the partnership they share, as well as with individuals in the community, businesses, institutions, and faith-based organizations. They are a community-based organization, a non-profit, and they serve members through Lamorinda community who are 55 and older. It is their belief that by providing support, connections, and resources, they are able to help and promote healthy independent living for those people in the community who choose to do so. Ms. Pak then gave the following presentation and overview:

Lamorinda Village Overview:

- A non-profit community organization serving residents aged 55+ in the Lamorinda area.
- Celebrating its 10-year anniversary.
- Provides support, resources, and social connection to promote healthy, independent living.

Partnership with the City of Lafayette:

- In 2023, the City Council approved a $60,000/year funding commitment.
- Rather than replacing a retiring city employee, the City chose to fund "supported memberships" to Lamorinda Village for qualifying low-income seniors.
- Memberships cost $360/year, but low-income residents can qualify by self-attesting without needing to submit financial documentation.

Impact of Funding:

- Since the agreement began, the City has contributed $98,000, helping cover memberships for seniors in both senior housing and private residences.
- $22,000 of the allocated funds remained as of March 2023.
- Suzi Pak transitioned from volunteer to part-time employee to support outreach.

Goals and Progress:

- Goals included increasing membership, diversifying the community, and expanding programs.
- Emphasis on reaching non-members aged 55+ with open-access programs.
- From June 2023 to December 2024, the Village tracked growth in membership, events, and participation rates.
- Expanded programs based on community input and need.
- Volunteer support is vital; each volunteer hour saves about $34.

Community Engagement & Highlights:

- Weekly events like the "Tuesday Swell Activity" have successfully brought in new members.
- Shared stories and photos of seniors engaging in birthday celebrations, card exchanges with school kids, and group activities.

Challenges:

- Digital literacy and communication remain barriers—balancing tech with traditional methods.
- Transportation is limited, though volunteers help by driving the Spirit Van.
- Financial accessibility and resource limitations in a high-cost area like Lamorinda are ongoing concerns.

Looking Ahead:

- Plans to grow membership and volunteer base.
- Want to increase partnerships with local businesses, churches, and schools.
- Goals include more inter-generational events and maximizing available resources.

In closing, Ms. Pak expressed gratitude to the City Council and emphasized the importance of continued collaboration and said she was available for questions of the Council.

Councilmember McCormick asked how Lamorinda Village engages with Moraga and Orinda.

Ms. Pak responded that Lamorinda Village has members, volunteers, and Board representation from all three cities: Lafayette, Moraga, and Orinda. They have started building relationships with the Parks & Recreation Departments in Moraga and Orinda, already offered classes in Orinda and plan to expand similar offerings in both Orinda and Moraga in the fall, and the goal is to provide free or low-cost classes, like those in Lafayette, with hopes of growing their presence and services in those communities.

Councilmember Cervantes asked about outreach beyond Chateau Lafayette, specifically mentioning Merrill Gardens.

Ms. Pak said Lamorinda Village actively partners with other senior living communities like Merrill Gardens, Byron Park, and Atria. Merrill Gardens has been an especially strong partner, hosting monthly community-wide Happy Hours. The first event hosted by Merrill Gardens was in November 2023, open to the public and originally planned for 50 attendees. Due to high interest, Merrill Gardens expanded capacity to 75–80 people and agreed to host another event the same month. These Happy Hours are held in restaurants, often with a sponsor covering food costs, and are aimed at community engagement and outreach to seniors.

Mayor Candell opened the public comment period.

WAYNE HALLADY said he and his wife are Lafayette residents and strong supporters of Lamorinda Village. He expressed admiration for the organization's impact and efforts. He highlighted that not all Lafayette residents are wealthy, and living on Social Security alone is often not feasible, spoke about the broader epidemic of loneliness in the U.S., which contributes to both mental and physical health decline, praised Lamorinda Village for offering more than just social events—they provide personal support, transportation, outings, free food, and financial sponsorships for those in need. He emphasized that these efforts foster a healthier and happier community, and he and his wife urged the City Council to continue and expand their sponsorship of the organization.

VICKI KROMER said she is a 95-year-old Lafayette resident, originally from Southern California. She moved to Lafayette three years ago at her daughter's urging and now lives in a small apartment on Lafayette Circle. She discovered Spirit Van, a wonderful service, learned about Lamorinda Village's Tuesday morning events at the Library, which introduced her to a vibrant new community, and said through these events, she's made friends and formed new social groups, describing it as a whole new world. She praised Lamorinda Village and said seniors outside Lafayette are jealous of the services and sense of community available.

MIRIAM GONZALES said she is new to Lafayette—moved just over a year ago to be closer to her son. She shared that at a certain age, it's hard to make friends and find meaningful activities. As an avid reader, she discovered Lamorinda Village's "Swell" activity at the Library by chance—and immediately felt at home. Through her attendance, she made friends and found community, which helped her adjust to her new life in Lafayette just as she had hoped. She praised the wide variety of popular and useful activities, noting they fill up quickly because they're so well-loved, and highlighted a positive ripple effect—these activities help promote and support local businesses, shops, and restaurants, strengthening downtown Lafayette. She concluded by emphasizing that Lamorinda Village's programs help people live comfortably and happily in the community.

MARY KERSTING said she recently moved to Lafayette from San Diego and learned about the senior group through the Library, where she discovered the Tuesday meetups. She participates in activities like strength and balance classes, which have made a noticeable difference in her physical health, attended a free San Francisco Symphony outing, where the conductor also composed the music—an experience she deeply enjoyed, appreciates the safe, group experience of traveling by BART to the event, thanked the City of Lafayette, Lamorinda Village, and their volunteers for enabling her to attend activities, Happy Hours, and events, and said she is now mentally and physically thriving thanks to the opportunities and support provided.

BETH BROWN said she joined Lamorinda Village a year and a half ago when she turned 55, is actively involved as a volunteer, especially working with Suzi Pak and participating in the Swell program, which she loves, joined the Auxiliary to help ease the workload and support larger events, expressed that it's an honor to serve her own community, noting it's especially meaningful since she also does mission work abroad—but helping neighbors at home holds deep personal value. As a single parent with grown children living elsewhere, she experiences isolation and lives alone, and being involved with Lamorinda Village has given her connection and purpose; she feels grateful and fulfilled seeing the real impact the programs have on people's lives.

CHERYL MCDONALD said she has been participating in City activities for years and recently learned about Lamorinda Village. She enjoys hearing the positive testimonies about the organization, plans to share information about Lamorinda Village with a few friends, and expressed amazement at the effort and work that goes into running the organization and supporting the community.

Mayor Candell and Councilmembers thanked Ms. Pak for her presentation and all the work with Lamorinda Village, noting that the Council will not be taking action on this item, but is using it as background information for a later item.

12. CONSENT CALENDAR

Mayor Candell asked and confirmed there were no requests for removal of items from Councilmembers or from the public and no public comments.

A. Minutes

1. **March 24, 2025**
   Recommendation: Approve.
2. **March 28, 2025**
   Recommendation: Approve.
3. **March 31, 2025**
   Recommendation: Approve.

B. Letter of Support for Contra Costa Transportation Authority (CCTA) Grant Application
Recommendation: Authorize staff to provide the Contra Costa Transportation Authority with a signed letter from the City of Lafayette in support of a CPUC Last-Mile Grant Program application.

C. Resolution 2025-20: Compliance with MTC's Transit Oriented Communities Policy as a Condition for the Lafayette Downtown BART Access and Circulation Project.
Recommendation: Adopt Resolution 2025-20 that commits the City of Lafayette to completing the Lafayette Downtown BART Access and Circulation Project for compliance with MTC's Transit Oriented Community policy requirements.

D. Core Area Landscaping and Lighting District 1979-1 – Resolution 2025-22 Approving the Preliminary Engineer's Report and Announcing the City's Intention to Levy and Collect Assessment for Fiscal Year 2025-2026
Recommendation: Adopt Resolution 2025-22.

E. Residential Lighting District 1979-2 - Resolution 2025-23 Approving the Preliminary Engineer's Report and Announcing the City's Intention to Levy and Collect Assessments for Fiscal Year 2025-2026
Recommendation: Adopt Resolution 2025-23.

F. Title VI Program and Implementation
Recommendation: Adopt Resolution 2025-25.

G. Resolution 2025-26 Declaring Property at 990 Moraga Road is Exempt Surplus Land
Recommendation: Adopt Resolution 2025-26.

H. Proclamation of recognition and celebration of a decade of Lamorinda Village's invaluable service to our community and the older adults it serves.
Recommendation: Approve proclamation.

ACTION: It was M/S/C (Cervantes/McCormick) to adopt the Consent Calendar Items A.1.a, b, and c, B, C, D, E, F, G, and H. Vote: 5-0 (Ayes: Candell, Anduri, Cervantes, Dawson, and McCormick; Noes: None).

13. OLD BUSINESS – None.

14. STAFF REPORTS

A. Jonathan Katayanagi, Parks and Recreation Director and Continued Funding of Supported Memberships to Lamorinda Village for Lafayette Residents
Recommendation: Continue funding of Supported Memberships to Lamorinda Village for Lafayette residents at $70,000 annually for the next two fiscal years, with funding provided upfront at the beginning of each service year. Additionally, direct the City Manager to execute a Memorandum of Understanding or a similar agreement requiring Lamorinda Village to automatically accept all residents of Chateau Lafayette and Belle Terre, as well as any Lafayette resident who meets the financial means test, as Supported Members. The agreement will also require the Village to make its best efforts to have a staff member participate in regular meetings of the Senior Services Commission as the Village's liaison to the Commission.

Parks, Trails, and Recreation Director Jonathan Katayanagi said after Suzi Pak's presentation, he expressed that his heart is full and that his job is made easier by the support and work provided by Lamorinda Village. He thanked Lamorinda Village for offering many services at no additional cost to the community, said staff restructured the Parks and Recreation Department, integrating Lamorinda Village into the coordination process, with a strong focus on volunteer coordination and creating an Age-Friendly community. He recognized that Lamorinda Village has played a key role in building and implementing senior-focused programs, especially at the Senior Center. He praised the Swell Center, which provides services and space for older adults, calling the collaboration with Lamorinda Village highly successful.

In the staff report, he outlined a unanimous recommendation from the Senior Services Commission to restructure supported memberships for Lamorinda Village. The plan involves integrating the membership signup process into the Recreation Department's system, allowing easy access for residents to sign up for memberships. The proposal includes funding the full amount upfront for supported memberships, providing stability and predictability for Lamorinda Village's operations, and the MOU staff proposal suggests two years of funding at $70,000 to Lamorinda Village, ensuring that the organization can continue delivering services without financial uncertainty, and Lamorinda Village has agreed to send Suzi Pak to Senior Services Commission meetings to stay aligned with community needs and ensure a continuous feedback loop for Age-Friendly services.

Councilmember McCormick asked if staff has looked at means testing to possibly be lower or he asked if they were still pricing people out that might otherwise do it.

Mr. Katayanagi said they have moved that bar year to year to stay on par with the County's numbers. Beyond that, they have not had that demand. The price of Lamorinda Village is relatively low, and they may have people who qualify but decide they still want to support and just sign up that way. It has not proven to be a problem at this time and no comments to date have been received on this.

Mayor Candell opened the public comment period, and there were no speakers.

Vice Mayor Anduri made a motion for approval and said he and Councilmember Dawson have the privilege of being the liaisons to the Senior Services Commission. It is wonderful hearing from Lamorinda Village about all they are doing. When the Senior Services Commission began this collaboration two years ago, it is fair to say they had no idea about how successful this would be. The upward trend on the amount of services being provided to seniors in Lafayette is a wonderful thing to see, and he is very excited about this restructuring and easier for the collaboration to move forward.

Councilmember Dawson then seconded the motion.

ACTION: It was M/S/C (Anduri/Dawson) to continue funding of Supported Memberships to Lamorinda Village for Lafayette residents at $70,000 annually for the next two fiscal years, with funding provided upfront at the beginning of each service year. Additionally, direct the City Manager to execute a Memorandum of Understanding or a similar agreement requiring Lamorinda Village to automatically accept all residents of Chateau Lafayette and Belle Terre, as well as any Lafayette resident who meets the financial means test, as Supported Members. The agreement will also require the Village to make its best efforts to have a staff member participate in regular meetings of the Senior Services Commission as the Village's liaison to the Commission. Vote: 5-0 (Ayes: Candell, Anduri, Cervantes, Dawson, and McCormick; Noes: None).

B. James Williams, Police Chief and Mala Subramanian, City Attorney
Update Free Speech/Protest at Lafayette Elementary School
Recommendation: Receive and file.

City Attorney Mala Subramanian gave the staff report and said since last year and in the last several months, the City has received complaints about individuals gathering in front of Lafayette Elementary School on Moraga Road. These individuals are directing their message to students and parents entering and leaving school. Staff has received numerous concerns about safety and the well-being of the children as well as potentially dangerous conditions related to traffic and vehicle safety.

The City has been asked to consider numerous regulations or prohibitions related to these protests, have been asked to consider a regulation that would prohibit protests within 25 yards of the schools during a 30-minute window before and after school pickup and drop-off. In addition, staff has been asked to consider a protest-free zone which would be a two-block radius from school sites that would prohibit protests occurring within one hour of drop-off and pickup of when schools are open. Lastly, the Council has received requests of what is considered a "bubble zone" which is an ordinance that the County of Los Angeles is considering, and the City of San Diego has adopted a similar ordinance. These ordinances try to mimic or copy a regulation out of the State of Colorado related to reproductive health care facilities and the ability to prohibit individuals from approaching another person who might be entering a healthcare facility or exiting a healthcare facility within an 8-foot radius of that individual without their consent.

The U.S. Supreme Court has permitted that as it relates to healthcare facilities. These bubble zone ordinances are extending this requirement to religious institutions as well as school sites. The Council has been asked to consider these three potential regulations. She stressed the City is committed to balancing free speech rights as well as protecting community members and being able to enjoy safe and peaceful places. With that in mind, the Council's ability to regulate these types of protests are typically restricted to reasonable time, place, and manner restrictions. This means that any restriction the Council might adopt needs to be content neutral, cannot be based on the content of the speech, needs to be narrowly tailored to serve the City significant interest in ensuring safety and convenience of the community members that are using the public forum, in this case, the sidewalk, and it also needs to leave open alternative channels for the message to be communicated.

Given the time, place, and manner restrictions that are required by the Constitution, she has concerns about the ability to defend the first two suggestions successfully that have been made related to protest-free zones within the radius, whether it be 75 feet or two blocks of the school site. The bubble zone ordinance has been adopted by the City of San Diego, and they are currently in litigation over that ordinance. The City has successfully defended it at the District Court level. It is being appealed to the Ninth Circuit, and they did their best to mimic the ordinance the Supreme Court had approved in 2000 related to healthcare facilities, so she thinks this will work its way up through the courts. If this is something the City is interested in adopting, she would encourage the Council to see how that litigation plays out. If the City is successful in defending it, this could be something the Council considers adopting.

Ms. Subramanian stressed that they are committed to making sure pedestrians and vehicles have safe access to the school and that the ADA regulations are complied with. She turned the matter over to the Police Chief to discuss enforcement issues.

Police Chief James Williams referred to enforcement on this matter, the Police Department received about 170 calls for service in the vicinity of Lafayette Elementary School located at 950 Moraga Road from that area between Moraga and Moraga at Brook and Moraga at School Street over the last year. During those calls for service, only 30 were related to protest-related calls for service. Only 3 happened this year in March, none of which generated a police report. Officers responded to that area and conducted an investigation. There was no criminal activity that occurred. Peaceful protests were occurring. The majority of the reports for service happened last year, mostly in March and April. Of those, 27 are remaining and 3 generated police reports.

The Police Department remains aware of the on-going demonstrations and is committed to maintaining public safety for all members of the community. They continue to work closely with individuals on all sides of the issues to ensure their right to free speech is respected and protected. At the same time, they will not tolerate any violations of the law, and their priority is the safety and well-being for all residents, students, and visitors in Lafayette. They encourage everyone to express their opinions respectfully and within the boundaries of the law.

Mayor Candell said most calls for service were last March and April, but none were raised to an actual police report or anything beyond. Chief Williams said this year, there have been 3 in March, and none of them generated a police report. Last year, in March and April was a majority of the other ones, and of those calls for service, 3 resulted in a police report.

Vice Mayor Anduri asked if it is the City Attorney's understanding that the Los Angeles ordinance heard about in public comment is modeled on the San Diego ordinance.

City Attorney Subramanian said she has not seen the Los Angeles ordinance. She sees the documents asking for the County Counsel to draft the ordinance, has looked at the Los Angeles County's website to see the ordinances they have adopted since that August 2024 date, and she does not see it as an adopted ordinance. But, from the paperwork she has seen, it looks to be like they are trying to adopt a similar ordinance to the City of San Diego.

Vice Mayor Anduri said his understanding is, is that if an individual is on public property, on a sidewalk in front of a school with a sign standing still, they are in compliance with the ordinance. Ms. Subramanian confirmed. Vice Mayor Anduri asked and confirmed that the ordinance prohibits them from approaching within 8 feet of an individual without their consent, and this is trying to match the Hill vs. Colorado case which had similar language where that 8-foot distance still gave the right to communicate and could be heard but that otherwise, consent was required to approach.

Councilmember McCormick asked if the examples given were the only examples. From public comment, the indication was that the time, place, and manner restrictions is customary. He asked if there are any examples of that happening in Lafayette's situation other than the ones mentioned.

Ms. Subramanian said the cases she found are really related to these reproductive healthcare facilities. This is why there are U.S. Supreme Court cases that discuss it. Cities have adopted ordinances specific to reproductive healthcare facilities and have now expanded them to other protected facilities such as religious institutions and schools, but she has not seen blanket prohibitions unrelated to these examples she is mentioning, but this is not to say they are not out there, but this could also be a case that could be litigated and could be costly. Therefore, she cautioned the Council and the public on that.

Councilmember Cervantes said the bubble zone concept may be something that works because it was structured to navigate a Supreme Court ruling, albeit it is someone standing there holding a sign and not approaching people. But, if something were more expansive where a 50-yard zone is created around a school or the entrance of a school where there is no protest of any kind, he asked if the City is on more tenuous grounds there. He asked if there is case law to support that.

Ms. Subramanian said this is her concern. She does not have anything she can point to like these other cases where the Supreme Court has upheld that type of ordinance.

Councilmember Cervantes suggested clearer guidance on that. The other question he has is traffic safety, especially around schools, is a huge concern of the community and things are hectic enough around these schools during the pickup and drop-off periods without additional distraction. He asked if there is a way to get a handle on the traffic safety part of this because that is a real concern. He is concerned about parents and kids and just having the extra commotion.

Chief Williams said he spoke with a motor officer before the meeting to find out if there has been any traffic accidents in front of the school in the last year based on that, and they could not find any specifically related to the protest activity. He believes the school speed zone is 25 mph. He said he is there most mornings he is on duty there conducting traffic enforcement. It is something he can additionally review and try to get more information and understands it can be distracting and so can other street signs and other things on the side of the road.

Councilmember Cervantes said he would think they are not the only community dealing with this. Possibly there are other police departments that have tried to figure that out too. Part of what he is trying to sort through is how to get their hands around this because it is a concern. Fundamentally, the key issue is the safety of the children and their parents.

Chief Williams agreed and said they want everyone to be 100% safe.

Mayor Candell asked if the City can stop protestors from blocking families from entering school grounds or block pedestrian or vehicular traffic.

Ms. Subramanian said if anyone is blocking the entrance of the school, this is something the City can deal with.

Mayor Candell asked if that is the nature of the 3 incidents last year. Chief Williams said the nature of that was a battery that had taken place and a theft. He did not recall any blockage of families from entering school grounds.

Mayor Candell said if families or other people document restrictions and the flow of pedestrian or vehicular traffic, she asked if this counts or, she asked if it is the law enforcement officers that must see it to make it count. Chief Williams confirmed they would have to see it.

Mayor Candell said she has had other people say, would there be a difference in this case if the protestors were just on the other side of Moraga Road and not on the side right next to the school. She asked if that would make a difference in the safety and blocking pedestrians. Chief Williams said it is difficult to answer that question.

Mayor Candell asked if the City can cap the number of protestors. Ms. Subramanian said as it relates to blockage of the street and those restrictions, she thinks the City could consider doing that, but she does not know they have had that issue of blockage of the street. If that is the concern, it is something they can look into.

Mayor Candell said someone was talking about the noise ordinance. She asked if there is enough evidence that protestors have violated the noise ordinance, as it seems the background noise is very high there. Chief Williams said the research he has done in speaking with the Sergeant and Officers who have responded is that the protestors are holding signs and there is no chanting, not noise-makers, and it is just them standing on the street holding signs.

Mayor Candell asked if the City thinks there is evidence that the protestors or counter-protestors have violated the City's sign ordinances. Or, if so, she asked what kinds of signs would be banned that would be affected by the City's sign ordinance. Ms. Subramanian said they have had incidents where some of the signs have been placed on vehicles and it has impacted line of sight issues, so this has been addressed in the past in 2024 when it occurred, but she does not know that has happened this year. There were no violations of just holding a sign or having it leaned up against an individual that she is aware of.

Councilmember Dawson said last year, there were signs affixed to the public fence across the street and that was an enforcement issue. Ms. Subramanian said yes, it was affixed to the City's property and had it removed.

Mayor Candell said if the Council tried to pass something, she asked for any guess as to how much it might cost. Ms. Subramanian asked and confirmed that Mayor Candell was referring to passing something without waiting, such as for the San Diego ordinance. She said if the City were to wait for that San Diego litigation to follow through and get to the U.S. Supreme Court if need be and the Council adopted something like that, she thinks they would be in a good position to adopt that. But, if the Council wished to adopt something else or wanted to adopt even the San Diego ordinance sooner, she thinks they would be looking at litigation. And, depending on how far it went such as to the District Court, 9th Circuit, U.S. Supreme Court, the price will go up exponentially into the six figures and higher six figures as they move up which is just for defense costs. If the City were to lose, the City would also need to pay attorney's fees for the other side, which would be quite expensive.

Mayor Candell said she knows emotions are high, knows there are differences of opinion about what people are saying on the signs, whether everybody likes it or not, the City has no way of enforcing any of that. If someone goes out of order on what is on the signs or who is protesting what, she will close the public comment of the speaker. She would like to keep this objective and helpful in terms of what people are seeing and not necessarily how people feel about the content.

Ms. Subramanian added that she understands the content is an issue, but any regulations the Council would adopt needs to be content neutral. So, to the extent members of the public cannot address that, that would be preferred. She thinks they would not shut down the comments but allow people three minutes to speak to it.

LISA THATCHER expressed pride in being a U.S. citizen, highlighting the value of freedom of expression she holds dear, especially due to her upbringing in Indonesia, where minorities have limited rights and speaking out often leads to persecution. She shared a disturbing incident involving Nancy Brown, a parent from Lafayette Elementary, who allegedly confronted her and two others aggressively, taking their pictures without permission. She refuted claims made by Nancy on Facebook that they made children cry, stating that no children were crying and that the loud yelling was likely from the confrontation. She raised concerns about a Facebook comment by Debbie Chance, who demanded the publication of their addresses for protests at their homes, which she found alarming, clarified that their intent was to raise awareness about the potential harms of a school initiative they believe encourages social transitions in children without parental knowledge, and that they were advocating for the protection of children from ideological influences in schools. She then expressed her belief that public schools should focus on education and not on ideology, emphasizing that it is not the school's role to decide on gender identity for children without parental involvement.

Mayor Candell noted it is not the purview of the City as to what the school teaches and asked Ms. Thatcher to focus on free speech.

Ms. Thatcher said their free speech rights were attacked. They were there to protect the kids and not to harm them. They never attacked anybody, but on the contrary, they attacked them. Those holding signs did not approach anybody.

LISA DISBROW described herself as the leader of the group protesting outside Lafayette Elementary School. She recounted three incidents last year where she was the victim: 1) the theft of $800 worth of signs, an attempt by a man to steal her sign, and 2) an assault by a man whom police later arrested after he confessed. She emphasized her group's non-violent stance, expressing respect for everyone’s right to free speech, and their love for the kids and community, refuted false accusations made a year ago by two trans-activists who claimed she was trying to find pedophiles to harm children in Lafayette, and shared that during their protests, they stood in the red zone across from the school, where Superintendent Stevens and other administrators thanked her for her positioning. She noted that police involvement was never required, as the situation remained calm with the presence of administrators.

She then criticized trans-activists for spreading false claims and mentioned that she does not engage in confrontations. When adults approach her, she offers to have a civil conversation, and when a child approached her, she directed the child to speak with her mother instead. She assured the Council that she is open to questions, is knowledgeable about the situation, and trusts the police reports to reflect the reality of the circumstances.

Councilmember McCormick said Ms. Disbrow said last year she said she was across the street from the school. He asked if that changed this year.

Ms. Disbrow said yes; they are on the school side. She said when there are people opposed standing in front of the school on the lawn, standing in the halls, she has lots of photos and videos from them blowing up their multi-colored beautiful balloons to do an activity inside the school, so she has the same rights.

Councilmember McCormick asked if Lisa Disbrow's position had changed this year compared to last year, when she stated they were across the street from the school.

Ms. Disbrow confirmed that they are now on the school side of the street. She explained that they have the same rights as others to be there, especially when people opposed to their views are on the school lawn or in the halls. She referenced having photos and videos of activities such as people setting up multi-colored balloons for activities inside the school, reinforcing her belief that she too has the right to be present and express her views.

LAURA ZUCKER referenced the City Attorney's comments on reasonable time, place, and manner restrictions for protests, emphasizing that these restrictions should be narrowly tailored to ensure public safety and convenience without depriving people of their right to reach their target audience. She questioned who the target audience for the protests was, noting that if the protest is against the District's policy on trans awareness, the District office would be a more appropriate place for the protest rather than Moraga Road. She raised concerns about Vision Zero, the initiative aimed at reducing traffic-related harm, suggesting that it should influence the reasonableness of any policies or ordinances related to protests, expressed concern that the Town's policy might be more influenced by potential litigation costs rather than focusing on protecting students and community members from disruptions, especially along the main artery of the town, and she urged the Town to align its actions with its stated goals for Vision Zero, suggesting that this would be a clear and practical framework for addressing the issue.

RON OTTOBRE, a crossing guard at Brooks Street and Moraga Boulevard, highlighted the safety hazards in a busy traffic area and the challenges of ensuring kids cross the street safely. He pointed out that distracted drivers, such as those using cell phones or slowing down to engage with protestors, create dangerous situations. This leads to close calls and rear-end collisions, which often go unreported by police as they are minor incidents. He specifically mentioned that the presence of protestors in the area has made the situation even more unsafe, as he has observed drivers distracted by taking photos or interacting with protestors, which disrupts traffic flow and makes it difficult to ensure the safety of children. He expressed concern that a lawsuit could result if someone is hurt in this situation and emphasized that his role is solely focused on getting the kids safely across the street. Mr. Ottobre then reflected on his motivation for taking the job, which came after the tragic death of Ashley Diaz and said they do not want a similar tragedy to occur again.

JEN MCCARTHY REDMAN, a parent of children at Lafayette Elementary and Stanley Middle Schools, expressed concern about the safety of the intersection where Ron Ottobre serves as the crossing guard. She described the area as particularly dangerous, with poor visibility, crowded crosswalks, and a school parking lot entrance that adds to traffic hazards. She highlighted the close proximity of large trucks to the sidewalks, which makes the situation even more perilous, and noted that fire hydrants have been damaged twice in the area by vehicles. Drawing from personal experience as a pedestrian accident victim, she emphasized that the intersection is unsafe and the line of sight for both pedestrians and drivers is obstructed.

She expressed that drivers are often distracted by protest signs, contributing to the danger, and shared that one of her children was distressed by the situation, crying over it, and she urged the Council to take action to protect crossing guards, school staff, and students at this hazardous location, and emphasized that this is not the appropriate place for demonstrations or signage.

STACI ERICSON, a long-time Lafayette resident, thanked the Council for acknowledging the safety concerns related to protests near Lafayette Elementary during school pick-up and drop-off times. She referenced a memo from the City's legal counsel that discussed the possibility of a buffer zone but pointed out that legal counsel advised that time, place, and manner restrictions would prevent relocating protests, as it might impede their ability to reach their target audience. She raised the point made by Laura Zucker, questioning whether the target audience for the protests might actually be the District and its trans-inclusive policy, and whether this shift would impact where protests could be held.

She also expressed concern that the Police Department had received few complaints about the protests, noting that nearly 400 people had signed a petition expressing frustration with the situation, and suggested this lack of reporting could be due to the community's belief that nothing would be done about it. She then pointed out that citizens have been collecting evidence (videos, photos, texts, etc.) of the protests, which could be provided if needed, emphasized that they were not trying to stifle free speech, but rather seeking a balanced approach that would enhance safety for children while allowing for protests to continue, and urged the Council to explore multiple solutions to address the situation.

SARAH VICKERS-WEBB ceded her three minutes to Staci Ericson.

Ms. Ericson continued and pointed out that several cities in California, including San Diego, Napa, Lancaster, and Sacramento have already implemented buffer zone ordinances. She highlighted that many other cities are in the process of adding similar ordinances, demonstrating that it can be done. Since the City has acknowledged the safety issue and agreed that a buffer zone could help, she requested that the City Attorney reach out to her attorney contacts and that City Councilmembers contact the cities she mentioned to learn how these ordinances were successfully implemented. She urged that if the Council is genuinely committed to the safe arrival and departure of students, they should take the initiative to reach out to other cities for guidance on establishing a buffer zone. She expressed concern that without action, the community might be faced with the unfortunate situation of hindsight, where it would be too late to make changes after a tragedy has occurred.

Vice Mayor Anduri said Ms. Ericson mentioned the San Diego buffer zone, and he asked if Ms. Ericson would like to see something like that in Lafayette.

Ms. Ericson said she would like to see anything that would improve or decrease the current safety risks for children coming and going to school but she was not sure about everything San Diego has done but knows they have installed a buffer zone.

KATHRYN WINOYURA thanked the Council for allowing this process, said she has a printed copy of the petition that has been circulated throughout Lafayette and Lamorinda. To date, there are 387 signatures as of an hour ago and about 90 comments of those 387 signatures. She read the petition into the record:

"Petition to Keep Lafayette Students Safe from Traffic Distractions Caused by Protestors to the City of Lafayette, CA: We, the undersigned residents, parents, educators, and community members of Lafayette are deeply concerned about the safety risk posed by recent protests at the Lafayette Elementary School during drop-off and pickup times.

Over the past two school years, protestors have positioned themselves outside of Lafayette Elementary School during busy drop-off and pickup periods when children are walking to and from school and getting into and out of cars. The protestors often carry signs that block the sidewalks, forcing pedestrians to step into the street and go around them. Frequently, the signs extend into the street itself, creating hazards for both pedestrians and drivers. At times, protestors are stepping into the road to engage with passers-by, distracting drivers further on already congested Moraga Road.

Growing tensions are of particular concern adding to the distraction and commotion at a time and place where the primary focus should be the safe arrival and departure of students at their school. Students, parents, and teachers are frequently shouted at by these protestors, video-taped without their consent, and subject to harassment. Additionally, message on the signage are phrased to create conflict and undermine student's sense of self-worth. This is not an environment conducive to focused attention on traffic and the safety and well-being of children. Middle school students are affected as well on their way to and from Stanley Middle School and have been seen jay-walking across Moraga Road to avoid the commotion.

Currently, these protests are concentrated at and regularly occur outside Lafayette Elementary, but similar hazards could arrive at other schools in the area. We hereby request that the Lafayette City Council take immediate action to address these safety concerns by creating a citywide ordinance that 1) Establishes a protest-free zone extending two blocks in all directions from any school; and 2) Enforces this zone one hour before and one hour after school starts and ends. The goal of this ordinance is to provide a safer environment for children as they arrive and leave school while still respecting everyone's right to free speech. We, the undersigned, call on the City of Lafayette to take action and ensure the safety of our students during school drop-off and pickup times."

JAMES COOK, a Pastor from Martinez, emphasized the fundamental importance of freedom of speech guaranteed by the First Amendment of the U.S. Constitution. He argued that this right protects not just popular speech but also the challenging, uncomfortable speech that often drives progress and provokes thought. He pointed out that while cities and local governments can regulate speech through time, place, and manner restrictions, these regulations must be content-neutral, narrowly tailored to serve a significant government interest, and must leave ample alternative channels for expression.

Mr. Cook stressed that the role of government is to protect free speech, not to suppress it, and that ordinances that limit when, where, or how speech can occur in a way that silences a particular viewpoint violate the First Amendment. He shared his personal experience with Project Truth, a group that won a legal case against the College of Alameda for restricting their speech, reminding the Council that the 9th Circuit Court has consistently sided with freedom of speech in such cases. He concluded by noting that, despite the controversy surrounding the protests, no harm has come to children, suggesting that the issue has been blown out of proportion. This reflection underscores the ongoing debate between protecting constitutional rights and addressing community safety concerns, particularly when it comes to public demonstrations in sensitive areas like schools.

SARAH LIND addressed the ongoing debate about protests at schools, particularly in light of Lafayette School District Board President Rob Sturm's recent request for the City to restrict protests based on time, place, and manner. She acknowledged that such restrictions must be content-neutral to respect First Amendment rights but pointed out the irony that the schools themselves are not neutral on the issue of gender identity, which is why protests continue. Lind emphasized that schools should not promote any particular ideology, as this leads to division and silences parents who disagree. She compared the debate over gender identity to religious debates, arguing that just as schools and the City remain neutral on religious topics, they should also remain neutral on this issue.

Ms. Lind argued that restricting protests will only deepen the divide and curb free speech, rather than resolving the underlying issue. She called for neutrality from both the School District and the City, suggesting that schools should either present all views fairly or step back entirely from celebrating one viewpoint. She asked the Council to lead by example and call on the School District to adopt neutrality. Finally, Ms. Lind urged the Council to bring all parties together for a conversation, rather than pursuing litigation, as a way to foster understanding and create an environment where every voice is heard without anyone feeling silenced. This comment centers around the importance of neutrality in schools, especially on contentious issues like gender identity, and advocates for dialogue as a way forward rather than restricting free speech.

KATIE FOREMAN ceded 3 minutes to Rob Sturm.

ROB STURM said the City Attorney's report properly acknowledged the City's ability to establish reasonable time, place, and manner restrictions that are content-neutral, narrowly tailored and leave open alternative channels. Respectfully, however, he believes the report overlooks existing realities, fails to engage in the necessary balancing of interests, and misinterprets the specific and narrow proposed content-neutral restrictions. Contrary to the report, the core issue is not the absence of traffic, obstructions, or impediments, although ironically slowed or stopped traffic might temporarily reduce the risk of vehicular accidents. Rather, it is the dangerous distractions caused by visible, attention-grabbing demonstrations near school zones which exacerbates risks in already chaotic and a complex environment during drop-off and pickup times.

Drivers slowing to read signs or engaged with demonstrators are not focused on immediate surroundings, namely children stepping off curbs, crossing driveways, or emerging from between cars. The report fails to cite any supporting case law and ignores that many other jurisdictions as the Council has heard tonight have implemented buffer or bubble zones based on well-established safety concerns. This goes for both cities and other public entities like the UC and the California State Universities. These have been upheld whereas proposed here, the restrictions are content-neutral and narrowly tailored to serve a significant government interest, i.e., student safety. To the extent demonstrators aim to reach parents of Lafayette School District students, this can be readily accomplished. For example, outside, the narrowly defined restricted zone either just up or down the street without significantly diminishing the effectiveness of the message. The notion that the demonstrators must be directly adjacent to the school grounds during the limited window of student drop-off and pickup conflates effective communication with the most desired location, a position the courts have not adopted.

The First Amendment does not guarantee the right to protest in every location at every time. Free speech and First Amendment rights are important and, in this case, the ask here is not for an outright prohibition on demonstrations near schools but rather a narrowly defined and limited buffer that prioritizes safety during the brief windows of highest risk.

Finally, where the City Attorney may believe this position is a safeguard against potential First Amendment litigation, likely the unstated elephant in the room, that concern must be weighed against the City's obligation to protect the public, particularly our children, from preventable harm. A narrow ordinance will be defensible and importantly will proactively mitigate a risk we all recognize and have unfortunately faced in the past rather than wait for tragedy to compel action.

Earlier today, he ran the situation by Dan Horowitz, a respected local attorney and friend whose opinion he highly values and he, too, recognized the City's ability to implement a narrowly tailored and strictly content-neutral time, place, and manner restriction anchored in public safety at our schools. He urged the City Council to act now with the foresight and leadership that this moment demands.

LIBBY HENRY a long-time Lafayette resident, shared her perspective on the ongoing protests related to school policies. Having lived in Lafayette since 1958 and worked as a teacher for 27 years in one of California's most diverse school districts, she felt compelled to speak out. As a founding member of the Lafayette Community DEIB (Diversity, Equity, Inclusion, and Belonging) Committee, she explained that she had engaged with Lisa Disbrow, a protestor, to better understand the protest's motivations.

Ms. Henry expressed concern about the misuse of freedom of speech, particularly when it is used to attack and deny the rights of others. She highlighted how misinformation, disinformation, hate speech, and lies are being spread under the guise of free speech. While she acknowledged that freedom of speech is a right, she emphasized that spreading falsehoods and denying others' rights is not acceptable, as it poses a danger to society. Her comments focus on the harmful impact of using free speech to target vulnerable communities and the danger of spreading misinformation.

NICKI COWGER addressed the concerns raised by Ms. Subramanian and Chief Williams. She shared her personal observations from being present at the school site for numerous hours over the past two school years. She noted that, despite being there frequently, she has seen that the Police Department is not consistently monitoring the situation. She described multiple instances where protesters, including Lisa Disbrow and Lisa Thatcher, positioned their signs in dangerous areas where children must cross, placing pedestrians, cyclists, and drivers at risk. She mentioned near-miss incidents where children were nearly hit by cars because drivers were distracted by the signs.

She emphasized that this issue goes beyond a First Amendment concern and represents a clear and present danger to public safety. She requested that Chief Williams assign an officer to the area to monitor the situation and ensure that protesters behave more responsibly around children. Cowger expressed concern about protesters standing directly in front of children in a restricted space, which she believes is both harmful and purposeful. As an attorney, Ms. Cowger urged the City Council to consider the legal and financial risks of not addressing the dangerous situation, particularly in the event of an accident or insurance claim. She emphasized the importance of resolving the safety risks presented by the protests to prevent harm in the community.

ANN LEVIN, a former California Public Law Attorney with experience in representing cities on free speech issues, expressed her disagreement with the City's stance that their hands are tied when it comes to limiting protests in a way that might prevent speakers from reaching their intended audience. She acknowledged the importance of adhering to time, place, and manner requirements, ensuring content-neutrality, and making the restrictions narrowly tailored, but argued that there is room for action without violating free speech rights.

Ms. Levin highlighted the San Diego ordinance as an example, which had been in place since the 1990s and recently amended. She recommended that the City Council ask the City Attorney to look further into this ordinance and others related to harassment and obstruction, and suggested consulting networks such as the League of California Cities for further insights on how other cities have dealt with similar issues. She also emphasized that the goal is not to silence speech, but to ensure the safety of students, particularly in high-traffic areas like Moraga Road, where congestion and distractions have already been pointed out by crossing guards and residents. Levin urged the Council not to wait for a tragedy to occur before acting and expressed confidence that legal fees should not be the deciding factor in prioritizing community safety. Lastly, she encouraged the City Council to continue exploring the buffer zone ordinance as a solution to address the safety concerns around the school and the surrounding areas.

HARRISON TINSELY, a single father in the Bay Area, strongly opposed any proposed policy to restrict protests near schools, arguing it would clearly violate the First Amendment. He cited two legal precedents—United States v. Grace (1983) and Steiner v. Phelps (2011)—to support his view that restricting protests based on content or location would be unconstitutional. He asserted that the push for restrictions is ideologically motivated, based on disagreement with the protest signs.

He warned the City Council that restricting protests near Lafayette schools could result in major legal and financial consequences, including potential lawsuits from attorney groups nationwide, with damages potentially in the seven to eight-figure range. He asserted that the motivation behind proposed restrictions is political and ideological, not based on actual safety concerns, especially since no accidents have occurred and protests have been described as peaceful by the Police Chief.
He emphasized that parents are expressing legitimate concerns about what they see as ideological influence in schools, particularly around gender identity, and they are trying to protect children. Tinsley strongly asserted that any effort to move protesters or limit visibility of their message would be an unconstitutional infringement on First Amendment rights and urged the Council to consider the legal precedents and refrain from passing any such regulation.

Mayor Candell asked if it is relevant as to who the target audience is. City Attorney Subramanian said whether it is the parents, the students, or she also heard from one of the speakers that it may even be the school administration itself, she thinks it is people who are going or attending the school. So, it is relevant but the comments about it being the District and maybe they should be going to District Board meetings is the choice of the protestors.

Mayor Candell referred to the crossing guard at Brook Street and asked if there is any way to get real data from a crossing guard and asked if that is relevant here.

Chief Williams said he gets to see it. His life experience has some value for this. To his own admission it is what he sees, and he brings value to what he sees every day and he is living it.

Mayor Candell said the other cities that have buffer zones and asked if there is a way to look into those.

City Attorney Subramanian said she looked at Sacramento and is happy to look further, but there are these zones that she mentioned related to reproductive health care facilities and approaching within 8 feet mentioned. They are all trying to mirror the Hill vs. Colorado ordinance or regulations.

Councilmember McCormick said he knows Nikki Cowger mentioned police are not out there all the time, but they are out there. He asked if the traffic officer feel it is unsafe now in their experience. Chief Williams said he would have to conduct more thorough questioning with them, but in his conversations, it can be a distraction as well as other street signs. He sees many distracted drivers and even the crossing guard where drivers are on their cell phones, going through red lights, and not all of it are caused by the signs, but there is another layer to consider.

Councilmember McCormick said in the Chief's experience, the Council is being asked to consider an "either or" proposition and if there was a dedicated traffic officer right in front of the school monitoring things, he asked if that would cause people to drive more carefully or help with safety in front of the school.

Chief Williams said in speaking with one of the motor officers he said he makes it a point to get out there first thing in the morning. He is not sure he is out there at afternoon pickup time, but they have other schools, and they are limited in their resources with the amount of people they can put in certain areas.

Councilmember McCormick said one of the themes heard from many of the speakers is it is dangerous now or more dangerous and a baseline level of discomfort because it is a very busy intersection, and adding the protests on top of that is increasing discomfort. He thinks it would be important to understand if there is any data to figure out if that is true or not. It is stop and go traffic at all times, so it might be a worthwhile thing to investigate.

Councilmember Dawson said Moraga Road is a route of regional significance. It is very busy, and she saw a report in 2017 that at peak hour 900 cars go by. She asked if there is anything the City could do around that in terms of traffic, Vision Zero ordinance, or something else to eliminate distractions as a road safety issue.

City Manager Srivatsa said she can speak with the City's Engineering Department to see if things can be done. This is the primary route from Moraga to the freeway, so that needs to be taken into consideration as well.

Councilmember Dawson said the City has invested heavily as a safe routes to school and this is obviously where five different schools travel this route, but particularly that included with the number of cars on that road, it seems there is a good nexus there to pursue.

Mayor Candell said on that same idea is Streetlight data. She asked if there is any way to get Streetlight data from last year versus this year to compare. Ms. Srivatsa said it is her understanding that Streetlight data provides the volume of traffic at any intersection. Mayor Candell said she thinks it is more, and they can get more data than just volume. Ms. Srivatsa said she would be happy to follow-up with Engineering.

Vice Mayor Anduri said he thinks it is fair to say that ensuring the safety of school children is a significant government interest. He thinks the Council has heard enough to follow-up on that. He also thinks it is fair to say from their personal experience of driving by school drop-off and pickup sites that they are chaotic and difficult situations, but that does not mean he knows enough to support an action now. He thinks they need to build the record before the Council does anything. It really is an issue of school safety and safety of school children.

One question is, how to build that record. He guessed they can talk about that and whether there is some way on an intermittent basis where people do not plan on the police being there, but that police observe so they can get a report from the Police Department on what the level of risk is to school children, so the Council has some basis on which to make a decision. At the same time, if they could ask the City Attorney to look into these other ordinances. He has a feeling that most of them are dealing with the reproductive healthcare situation rather than schools, hospitals, or other governmental agencies, but it would be good to know that because the public is citing these ordinances.

On the two fronts, he asked to see what others have done in terms of making a situation safer and determine whether Lafayette's situation is one where it is necessary to put on restrictions to make it safer. He thinks all of them are strong supporters of the First Amendment. They will not put on a restriction unless they can support that restriction unless there is a significant government interest that is provable that they can impact. So, his recommendation is to follow those two paths and reconvene to talk about it again.

Councilmember Cervantes said he thinks these are really good tracks to follow. The thought that also occurred to him is they have at least one crossing guard and others as well. He asked if they provided information to someone as seeing "x, y, z" today. His earlier question is how to get data on this to understand it better. There may be a resource they could look to also from sources there on the ground all the time. Anecdotally, driving by Spring Hill School in the mornings, it is hectic and they do not have the traffic at all like there is at Lafayette Elementary School.

Vice Mayor Anduri added that he thought the crossing guard's testimony today was compelling because while it does not prove the case, it shows it is worth looking at.

Councilmember McCormick said there are six weeks left of school. He thinks they need the data, but if they conduct a long fact-finding mission, the school year will be over, and it will not have addressed things. He is concerned that the situation brought to the Council was an either/or situation. If it is dangerous and therefore you cannot have a protest within a certain bubble, he feels there are a whole range of mitigation factors they can do around safety that are far short of prohibiting free speech in a particular area. He is just concerned about the timing. The Council meets twice a month, and school is only six more weeks. He thinks they can ask to beef up patrols over the next few weeks while they do more data gathering to ensure maximum safety of the kids.

Mayor Candell said she was not sure they could beef up the controls but request it.

Chief Williams noted there are things as a patrol request such as calling into dispatch and request for a patrol request for any time of day. This could be something he could do and to ask his officers to be there during drop-off and pick-up times.

Mayor Candell thanked everybody for being very helpful. Everybody had great comments, and the Council learned a lot. They know this is a tough issue and they will have to work through it together, and they will be listening to everybody. She confirmed staff had direction.

C. Niroop Srivatsa, City Manager
SB 79 (Wiener): Planning and zoning: housing development: transit-oriented development
Recommendation: Authorize the Mayor to send a letter to the Senate Housing Committee and Senate Local Government Committee opposing the bill.

City Manager Srivatsa said before the Council is SB 79 (Wiener). Casey Elliott is available to present the staff report. SB 79 is a bill that impacts local government's ability to control planning and zoning on properties owned or leased by transit agencies. Staff is recommending the Mayor forward a letter opposing the bill.

Casey Elliott, Townsend Public Affairs, said SB 79 is a measure authored by Senator Wiener that is starting to move through the policy process in Sacramento. The legislature is currently in their spring recess this week, but the measure is scheduled for hearing next week once the legislature returns on the 22nd, and it will likely be heard again in its second policy committee the following week in advance of committee deadline on May 2nd, hence the desire to present the item this week to the Council.

SB 79 is related to local development standards surrounding transit stops. This bill is similar in nature to the BART bill from several years ago. That said, this bill is more expansive in that who it applies to as well as it sets out some different ratios for density depending upon the type of transit stop that is being discussed. The way the bill is broken out is it tries to categorize transit stops based on the type of transit that is serviced there and based on the tier, which is established within the bill, Tiers 1, 2 or 3. Then, development standards are put in place for those types of developments.

As they look at the City of Lafayette, the BART station would qualify under the bill as what is referred to as a Tier 1 transit-oriented development stop, so under that definition, any residential development within one-quarter mile of the BART station could be built up to 75 feet in height, of a maximum density of 120 du/acre, and then would have to have a minimum FAR of up to 3.2% for residential space. Those drop down a little bit for projects within one-quarter and one-half of a mile from the public transit stop. Those would be 65 feet in height, 100 units in density, and a FAR of 3.0%. The bill goes onto put in standards for what are considered Tier 2 and Tier 3 stops. Based on his reading of it, he does not believe those would be applicable. The only other element that would be bus lines; however, he does not believe the County Connection within the City service will count as a high-speed bus.

Under this measure, additionally, the bill would provide transit agencies the ability to set forth development standards on properties they own or have permanent easements on related to both housing developments as well as commercial developments within those standards. There are concerns from a local government perspective in that it provides agencies outside of the City to put in development standards and approve projects that may not necessarily be in alignment with the City or through the Housing Element process and General Plans.

The recommendation is to consider an "opposed" position. While the bill has not yet been heard so they do not have an official list of support and opposition yet, Cal Cities has taken an "opposed" position. They are encouraging other cities to do the same. There are several cities within the county that are in the process of submitting "opposed" letters or will be doing so soon. But, as far as supporters, this bill is co-sponsored by California EMB and Spur, Bay Area Council, and has support of pro-housing organizations they see in many of these bills. He was available to answer any questions.

Councilmember Cervantes said he went back to the BART bill; AB 2923 because this came up in Housing Element discussions early on. He recalled BART could develop the lots that it owns up to 7 stories or 75 du/acre. The figures here are higher for Tier 1 and within one-quarter mile of up to 120 du/acre. He asked if SB 79 supersede AB 2923.

Mr. Elliott said this is a good question—as the bill is currently drafted, it is agnostic to the BART bill. He noted the BART bill sunsets in 2029. SB 79 does not contain any sunset, so after that date it would be very clear in that if the BART bill was not extended, SB 79 would take its place. Since the bills do not cross over, he assumes they would have this in the Bay area in areas where there is BART where there is a back and forth under BART's TOD guidelines that the development for the BART station would be under right now. Lafayette's BART station qualifies for even lower densities and heights than are otherwise permitted at stations in other areas. BART's TOD code makes a differentiation between neighborhood stops and stops in San Francisco and other density areas. But this bill does not make those types of delineations. At this point, SB 79 does not cross reference AB 2923.

Councilmember Cervantes asked if BART or other transit agency purchase property or lease it and turn around, upzone and develop. He thinks they could do that under this bill.

Mr. Elliott said this bill pertains that land that is owned or is in permanent easement by a transit agency, so it does not necessarily have to be owned or in permanent easement upon the enactment date of this bill. So, presumably, future acquisitions would be eligible for development under these provisions.

Councilmember Cervantes said there was some language in AB 2923 about consulting with the local jurisdiction which seemed vague. With respect to SB 79, he asked if this is contained in that bill, and he asked what role, if any, does the local jurisdiction have with respect to the transit agency under the bill.

Mr. Elliott said there are references within SB 79 to deem consistencies with local planning and zoning compliance so there is at least an acknowledgement that there is local planning processes that go on in place. His read within that language within SB 79, again, does not necessarily imply it would be otherwise consistent within the planning processes. So, there is nothing in the bill that would mandate working with local governments; however, at least there is some acknowledgement that there are some local standards in place.

Councilmember McCormick said the structure of the bill confused him a bit when they start talking about the zones; the quarter-mile radius, the half-mile radius out from the transit area coupled with the fact that the transit agency has to own or have an easement on the property. Around here, he asked if they were really talking about the BART parking lot. He asked if the quarter- and half-mile radius do not apply to Lafayette.

Mr. Elliott said from the distances they would basically be talking about the BART parking lot. There is a provision within the bill that allows for the transit agency to set up development standards for commercial or residential on properties it owns irrespective of distance. So, potentially they would not necessarily just be dealing with a parking lot near a station if there was a maintenance or corporation yard or other land holdings. Then, they could have development standards in place for those which could include residential or commercial.

Councilmember McCormick asked if these numbers are before any density bonuses. In the City's experience, there is a lot of advocacy for low-income housing and if it is a typical transit-oriented housing development, they would expect low-income housing which would trigger significant density bonuses on top of this.

Mr. Elliott said correct; the bill mentions as it relates to the density that the development proponent can seek increased density through density bonus law.

Mayor Candell asked if the bill actually does not require the building of housing where BART could build a Costco and asked if this was possible.

Mr. Elliott said for the provisions within one-half mile of the transit stop, that has residential requirements; however, for other properties owned or in long-term easement, those do not necessarily have to have a residential component. For the BART parking lot, it would need to include an element of housing, but if they had a corporation yard or other properties that they owned, that would not necessarily require a housing component of development.

Mayor Candell opened the public comment period.

LIBBY HENRY disagreed with Mr. Elliott's interpretation of SB 79, asserting that it does apply to bus lines and stops, which makes Happy Valley vulnerable to upzoning, even if service is infrequent. She criticized SB 79 as another example of State Senator Scott Wiener's legislation that she believes targets and harms single-family neighborhoods throughout California. She expressed frustration with the over 250 housing bills passed in the last five years, arguing they have failed to deliver affordable housing because they lack enforceable affordability requirements for developers, said cities are overwhelmed with unrealistic RHNA mandates, stripped of planning autonomy, and given no funding or tools to meet the demands, and urged the City to oppose SB 79 as a statement of resistance to what she described as a broken and undemocratic process in Sacramento.

BILL BUCHER, President, Lafayette Homeowners Council, said for many of the same reasons Ms. Henry spoke about as well as what Mr. Elliott mentioned, this is a terrible bill. It is the sledgehammer approach from Sacramento, and they are writing their own letters to the legislature in opposition to it, and they support the City's position of "opposition" and send a message to the State.

Councilmember Cervantes said the City started the Housing Element four years ago. The Council has been working on it for the last couple of years and finally got their certification. He feels like they have a marker in the ground as to what the City is doing with respect to housing and zoning, and he feels like this bill moves the goalpost on them. One could argue you need more density to make housing work, but his criticism is to tie it to the RHNA process and make it a more holistic view in how they try to approach and solve the housing conundrum in California. On the local level, they are trying to figure out how to make it work and they finally got their zoning set, and he recommended trying to make that work.

Councilmember McCormick said the absurdity of the fact the City got its Housing Element approved when they were not allowed to use the property on the BART parking lot as part of their Housing Element and then having this bill come in to force them to have it occur completely outside of the City's purview is absurd.

Mayor Candell said she agrees, and this will impact their city, but they already know the BART lot impacts their City. It is so many other cities that never had AB 2923 and this is a massive impact on the rest of the State of California.

ACTION: It was M/S/C (Dawson/McCormick) to authorize the Mayor to send a letter to the Senate Housing Committee and Senate Local Government Committee opposing the bill. Vote: 5-0 (Ayes: Candell, Anduri, Cervantes, Dawson, and McCormick; Noes: None).

15. PUBLIC HEARINGS – None.

16. ITEMS REMOVED FROM CONSENT – None.

17. COUNCIL / COMMISSION REPORTS

A. Councilmembers report on activities and consideration of matters a Councilmember wishes to initiate for placement on a future agenda.

Vice Mayor Anduri publicly thanked the Police Chief for the traffic enforcement saturation project which was a huge success.

Councilmember McCormick said he was happy to represent the City at the celebration of Marquis de Lafayette on behalf of the Mayor and the City issued a proclamation. He gave a shoutout to Ann Appert, Citizen of the Year.

Mayor Candell added she attended the Marquis de Lafayette event Saturday which was adorable, and a great event and the little band was wonderful.

Councilmember Cervantes noted he attended the Marquis de Lafayette Thursday event and praised Councilmember McCormick for his reading of the City's proclamation. He highlighted the upcoming 250th anniversary of the Battles of Lexington and Concord on April 19th, which marked the start of the American Revolution. He reflected on how this begins a cycle of 250-year commemorations leading to the formation of the U.S. Constitution, emphasizing how fitting it was that the Council spent much of the meeting discussing the First Amendment. He thanked the community members who spoke and acknowledged the importance of preserving the legacy established by those who risked everything for American independence.

18. WRITTEN COMMUNICATIONS

A. Letter from Christine Raymond, Board Member of the Community Foundation of Lafayette, requesting use of Lafayette Plaza on Saturday, May 3rd from 7am to 3pm for Lafayette's 4th Annual Lafayette Community Day to include closure of Plaza Way and no enforcement of the parking meters around the Plaza and Golden Gate Way.
Recommendation: Approve the request and adopt Resolution 2025-24.

Mayor Candell opened the public comment period, and there were no speakers.

ACTION: It was M/S/C (Cervantes/Dawson) to approve the request and adopt Resolution 2025-24. Vote: 5-0 (Ayes: Candell, Anduri, Cervantes, Dawson, and McCormick; Noes: None).

B. E-mail from Eric Shaw, Principal of Acalanes High School, requesting use of Lafayette Plaza on Thursday, May 22nd for the Senior Class Celebration.
Recommendation: Approve the request pending receipt of insurance certificate and adopt Resolution 2025-21.

Mayor Candell stated the City Clerk said they want to clarify in this item that the City will also be able to grant them the encroachment permit. The Council can also waive the fees for this permit if they choose and these will be modifications or clarifications for the permit in the resolution.

Mayor Candell opened the public comment period, and there were no speakers.

ACTION: It was M/S/C (Cervantes/McCormick) to approve the request pending receipt of insurance certificate and adopt Resolution 2025-21, as modified to waive the encroachment permit fee. Vote: 5-0 (Ayes: Candell, Anduri, Cervantes, Dawson, and McCormick; Noes: None).

C. E-mail from Peter Norton resigning from the Creeks Committee effective April 16, 2025.
Recommendation: Accept resignation and thank Peter Norton for six years of volunteer service.

Mayor Candell thanked Mr. Norton for his six years of volunteer service on the Committee.

Mayor Candell opened the public comment period, and there were no speakers.

Vice Mayor Anduri said the Creeks Committee is an amazing committee, with very active members. Mr. Norton was definitely one of those members. He appreciates his work, especially taking on the project of creating the signposts for creeks. There was an Eagle Scout who worked with him, and they completed the project where people can now see 25 signs in the downtown and other locations that let people know the name of the creek.

Mayor Candell opened the public comment period, and there were no speakers.

ACTION: It was M/S/C (Anduri/McCormick) to accept resignation and thank Peter Norton for six years of volunteer service. Vote: 5-0 (Ayes: Candell, Anduri, Cervantes, Dawson, and McCormick; Noes: None).

19. ADJOURNMENT – 10:16 p.m.

APPROVED:

_____
Susan Candell, Mayor

ATTEST:

_____
Joanne Robbins, City Clerk